



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Cheryl Newton, Acting Director,  
Air and Radiation Division  
USEPA Region 5 (AR-18J)  
77 W. Jackson Blvd.  
Chicago, IL 60604

Subject: Clarification on the Attainment Demonstration for the 1-Hour Ozone Standard

Dear Ms Newton:

The purpose of this letter is to clarify our December 22, 2000 submittal related to the attainment demonstration for the 1-hour ozone standard. Based on our discussions with Region 5 staff, it appears that there are five issues that warrant further clarification:

- 1) Director's discretion in our NOx rules under chapter NR428 of the Wisconsin Administrative Code.
- 2) A commitment to develop new conformity budgets 1 year after the official release of the Mobile 6 motor vehicle emission factor model.
- 3) Clarifying unit conversions used in our NOx rules.
- 4) Compliance demonstrations with emission limits by fuel in our NOx rules.
- 5) The trading and averaging provisions of the NOx control regulations.

### Director's Discretion

Sections NR 428.04(3)(b), NR 428.05(4)(b), NR 428.07(4)(a) and NR 428.10 contain monitoring requirements that reference procedures and methods specified in 40 CFR Part 60, Appendix B. The aforementioned sections in the Wisconsin Administrative Code allow for the use of alternative test methods, if approved by the Department of Natural Resources (DNR). For ozone precursors our approval process is outlined in section NR 439.06 in the Wisconsin Administrative Code. This section requires us to submit alternative or equivalent compliance methods to USEPA as source specific SIP revisions and the alternative or equivalent methods do not become effective until approved by USEPA. NR439 is an approved part of Wisconsin's State Implementation Plan.

### Conformity Budgets

In proposing the adequacy of the Phase 2 budgets, EPA provided, "where a Phase 3 SIP includes the benefits of EPA's Tier 2/Low Sulfur Gasoline program, the State must also commit to revise the Phase 3 MVEB within one year after the release of the MOBILE 6 model." The Department has committed to recalculate the budgets using MOBILE 6 "in a timely fashion." In this context, "in a timely fashion" means one year after the official release of the Mobile 6 model. We assume EPA will announce the formal release of the MOBILE 6 model in the Federal Register and the date of that notice will constitute

"release of MOBILE 6" for the purposes of the commitments. We understand that this MVEB revision based on the final MOBILE 6 model will not trigger a separate 18 month conformity assessment clock.

### **Unit Conversions**

The U.S. EPA requested clarification of several monitoring and reporting requirements in the NO<sub>x</sub> stationary reduction rule in chapter NR 428. The rule contains a general monitoring provision for new and existing sources with emission limits. The points and clarification are discussed below:

*New sources - NR428.04(3)(b):* "The owner or operator of each NO<sub>x</sub> emissions unit subject to requirements of sub. (2) shall determine the annual average NO<sub>x</sub> emission rate, in pound per million Btu using methods and procedures specified in 40 CFR part 60, Appendix B..."

*Existing source -NR 428.05(4)b2:* "The owner or operator of an emissions unit subject to any of the requirements of sub. (3)(b) to (e) shall determine the average NO<sub>x</sub> emission rate, in pound per million Btu using methods and procedures specified in 40 CFR part 60, Appendix B..."

Because emission limits for combustion turbines, internal combustion engines, and glass furnaces are expressed in units other than "lbs/mmbtu" this appears to provide inconsistent monitoring requirements.

To eliminate this language inconsistency, the department will amend both new and existing provisions in a future clean-up package to read:

"The owner or operator of each NO<sub>x</sub> emissions unit subject to requirements of [sub. (2) – new; sub.(3)(b) to (e) – existing] shall determine the applicable average NO<sub>x</sub> emissions for demonstrating compliance using monitoring methods and procedures specified in 40 CFR part 60, Appendix B".

However, in the current form, the provision already clearly requires all NO<sub>x</sub> emission units to use 40 CFR Part 60 monitoring methods and procedures to demonstrate compliance with their performance standards. Each source is also required to submit a monitoring plan for department approval.

Section NR 428.07(1)(a) provides in part: "the owner or operator of an NO<sub>x</sub> emissions unit shall submit to the department a monitoring plan that describes in detail the systems to be used on the unit to satisfy the monitoring requirements." The monitoring plan is the primary mechanism used by the department to ensure that all monitoring and reporting requirements are consistent with a source's emission limit requirements or other rule provisions. Therefore, under current rule language there is an existing mechanism to ensure that all sources will monitor and report data consistent with the specified emission limit units.

### **Demonstrating Compliance with Emission Limits by Fuel:**

Several source categories have performance standards specified for several different fuels, but general rule provisions do not specify monitoring for each fuel. However, as previously discussed, there is a clear requirement to demonstrate compliance with the applicable emission limits and each source must submit a monitoring plan. In this case, to meet department approval, the plan will have to identify all potential fuels and the appropriate monitoring to demonstrate compliance for each fuel. However, to clarify this requirement the department will amend monitoring and reporting requirements as appropriate in any future rule clean-up package.

### **Averaging and Trading**

As part of the attainment demonstration, the DNR submitted averaging and trading portions of the NOx control rules. These specific provisions are contained in section NR 428.06 of the Wisconsin Administrative Code. We are aware that EPA must expeditiously rule-make on the attainment demonstration and we understand that the December 22, 2000 state implementation plan submittal is approvable without the averaging and trading portions. Therefore, we request that EPA postpone any rule-making on the averaging and trading portions portion of the attainment demonstration until we resolve potential problems with that section of the rules.

Sincerely,

Lloyd Eagan, Director  
Bureau of Air Management